

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FAMY CARE LIMITED,
Petitioner

v.

ALLERGAN, INC.
Patent Owner

Case IPR2017-00569
Patent 9,248,191

**PATENT OWNER'S OPPOSITION TO
PETITIONER'S MOTION FOR JOINDER**

On January 6, 2017, Petitioner, Famy Care Ltd. (“Famy Care”), filed an IPR petition and a motion to join its petition to IPR2016-01132 (“the Mylan IPR”). The Board granted the Mylan IPR on December 8, 2016 and issued a Scheduling Order setting August 17, 2017 as the date for oral argument.

There are significant differences between Famy Care’s petition and Mylan’s petition. Famy Care’s petition includes declarations from two new experts rather than relying on Mylan’s one expert and introduces additional arguments.

Moreover, Famy Care agrees only to use its “best efforts to cooperate with Mylan, and present consolidated papers wherever possible.” Petitioner’s Motion for Joinder, pp. 9-11. Nevertheless, Patent Owner agrees not to oppose joinder if Famy Care agrees to participate in the joined proceedings under the following conditions:

1. Famy Care agrees to rely solely on Mylan’s expert;
2. Famy Care agrees to consolidated briefing subject to the word count limits for a single party except for motions that involve only Famy Care;
3. Famy Care agrees that cross-examination of Patent Owner’s witnesses will occur within the timeframe that the rules allot for one party; and
4. Famy Care agrees that Mylan will conduct the oral argument.

Teva and Akorn have also filed motions to join the Mylan IPR, and have agreed to similar conditions for conducting the joined proceedings. See IPR2017-00586, Paper No. 3 (Teva) and IPR2017-00601, Paper No. 4 (Akorn). If Famy Care wishes to join, Famy Care should be able to participate only under the same conditions.

Respectfully submitted,

Date: February 6, 2017/

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